

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
SINGLE MEMBER APPEAL BRANCH

Appeal No. E/2103/2006-SM[BR]

Date 11/08/2008

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
C.C.E. CHANDIGARH
C.R. BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH 160017
C.C.E. CHANDIGARH

M/S NABHA STEELS LTD.

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No 1125 /2008 –SM[BR]. dated 4.8.2008
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar

(SM Appeal Branch)

Copy to :

1. Respondent

M/S NABHA STEELS LTD.

G.T.ROAD,SIRHIND SIDE,MANDI GOBINGARH, PUNJAB

2. Adv. / Consult SHRI G.S. BHANGOOADV.

HOUSE NO. 631, 1ST FLOOR, SECTOR-11-B,
CHANDIGARH

3. S.D.R.

~~4. J.C.D.R.~~

5. Bar association, CESTAT, New Delhi

6. M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017

7. M/s Centax Publications (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -

8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)

9. Raghuraman's 44-B, Regal Flat, Shipra Suncity, Indirapuram - 201010, Ghaziabad, DT, U.P.

10. Nidheshak publications, I.P.Estate, new Delhi

11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026

12. Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar, Chennai 60017

13. Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kunj, New Delhi - 110070

14. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15

15. Office Copy

16. Guard file


Assistant Registrar
(SM Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K Puram, New Delhi-110066

COURT-IV

Date of hearing: 04.8.2008

E/Appeal No. 2103/2006-SM(BR)

(Arising out of Order –in-Appeal No. 234/CE/CHD/06 dated 30.3.2006
passed by the Commissioner (Appeals) Central Excise, Chandigah)

For approval and signature:

Hon'ble Mr. P.K. Das, Member (Judicial)

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1. Whether Press reporters may be allowed to see the order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?
 2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?
 3. Whether Their Lordships wish to see the fair copy of the Order?
 4. Whether Order is to be circulated to the Departmental authorities?
-

CCE Chandigarh

Appellant/Applicant
(Rep. by Shri A.K. Rastogi, DR)

Vs.

M/s Nabha Steels Ltd.

Respondent
(None)

Coram: Hon'ble Mr. P.K. Das, Member (Judicial)

Order No. 1125/08 SM (BR)

Filed

Per: P.K. Das

Heard the ld. DR on behalf of the Revenue. None appeared on behalf of the Respondent inspite of issue of notice.

2. After hearing the ld. DR and on perusal of the records, it is seen that the Adjudicating Authority confirmed the demand of duty of Rs. 1,26,094.00 and appropriated the said amount as already deposited and also imposed a penalty of equal amount under Section 11 AC of Central Excise Act, 1944. Commissioner (Appeals) reduced the penalty to Rs. 10,000.00.
3. It has been observed that the Commissioner (appeals) ~~had~~ that the Respondent deposited the duty before issue of Show Cause Notice, no penalty is imposable and followed the decision of the Larger Bench of the Tribunal in the case of CCE, Delhi-III Vs. Machino Montell (I) Ltd reported in 2004 (62) RLT 709 (Tri.- LB).
4. The ld. DR submits that the Larger Bench decision of the Tribunal is over ruled by the Hon'ble Punjab and Harayana High Court.
5. In view of that, the impugned order is set-aside. The matter is remanded back to Commissioner (Appeals) to decide afresh

after considering the facts of the case. The appeal is allowed by way of remand.

(Dictated and pronounced in the open court.)

(~~P.K.~~ Das)
Member (Judicial)

K. Gupta